

David J. Bradley, Clerk

§
§
§
§
§
§
§
§
§
§
§

In a memorandum (Dkt. 2), Campos has clarified that he intended to bring his DNA-testing ground under 42 U.S.C. § 1983 as discussed by the Supreme Court in *Skinner v. Switzer*, 562 U.S. 521, 534 (2011). That being the case, the Court deems it appropriate to sever the *Brady* ground and dismiss it without prejudice as an unauthorized successive

habeas petition. Campos must “move in the [Fifth Circuit] for an order authorizing [this Court] to consider” the *Brady* claim. 28 U.S.C. § 2244(b)(3)(A); *see also Propes v. Quarterman*, 573 F.3d 225, 229 (5th Cir. 2009). Until he does so, this Court lacks jurisdiction to hear that claim. *United States v. Key*, 205 F.3d 773, 774 (5th Cir. 2000).

The *Skinner* claim, on the other hand, may be heard by this Court, and the Court will construe it as a Section 1983 complaint. However, Campos has neither paid the filing fee for a civil rights action (\$400.00) nor tendered a properly supported application to proceed *in forma pauperis* in compliance with the Prison Litigation Reform Act (the “PLRA”), 28 U.S.C. § 1915(b), which governs civil actions and appeals filed by prisoners.

Because the current pleadings are insufficient, Campos is **ORDERED** to correct his deficient pleadings within **thirty (30) days** of the date of this order by complying as follows:

Campos must either pay the filing fee of \$400.00, in the form of a money order or check issued by the prison unit on his behalf from funds found in his inmate trust account, with the above-referenced case number written on it, payable to the United States District Clerk, P.O. Drawer 2300, Galveston, Texas 77553, or he may file an application to proceed *in forma pauperis* using the attached form (or a similar form available at the prison). If electing to proceed *in forma pauperis*, Campos is instructed that he must submit a certified copy of his inmate trust fund account history containing the deposits and monthly balances for the six month period immediately preceding the filing of this lawsuit.

Campos is advised to request a certified copy of his trust account from the unit law librarian or other designated prison official at his unit.

Campos is advised to comply to the best of his ability. Campos is also admonished that if he fails to comply on time, then the Court may dismiss this case for want of prosecution, pursuant to Rule 41(b) of the Federal Rules of Civil Procedure, without further notice.

It is further **ORDERED** that Campos's second ground for relief (the *Brady* ground) is **DISMISSED** without prejudice for lack of jurisdiction. The remainder of the case (the *Skinner* ground) is to be reclassified as a civil rights case brought under Section 1983.

Campos's request that the Court take judicial notice of prior proceedings (Dkt. 3) is noted but **DENIED** for now.

The Clerk will provide a copy of this order to the parties.

SIGNED at Galveston, Texas, on September 2, 2016.



GEORGE C. HANKS, JR.
UNITED STATES DISTRICT JUDGE

AO 240 (Rev. 07/10) Application to Proceed in District Court Without Prepaying Fees or Costs (Short Form)

UNITED STATES DISTRICT COURT

for the

<i>Plaintiff/Petitioner</i>)	
v.)	
<i>Defendant/Respondent</i>)	Civil Action No.
)	

APPLICATION TO PROCEED IN DISTRICT COURT WITHOUT PREPAYING FEES OR COSTS (Short Form)

I am a plaintiff or petitioner in this case and declare that I am unable to pay the costs of these proceedings and that I am entitled to the relief requested.

In support of this application, I answer the following questions under penalty of perjury:

1. *If incarcerated.* I am being held at: _____
 If employed there, or have an account in the institution, I have attached to this document a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months for any institutional account in my name. I am also submitting a similar statement from any other institution where I was incarcerated during the last six months.

2. *If not incarcerated.* If I am employed, my employer's name and address are:

My gross pay or wages are: \$ _____, and my take-home pay or wages are: \$ _____ per
(specify pay period) _____.

3. *Other Income.* In the past 12 months, I have received income from the following sources *(check all that apply)*:

- | | | |
|--|------------------------------|-----------------------------|
| (a) Business, profession, or other self-employment | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (b) Rent payments, interest, or dividends | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (c) Pension, annuity, or life insurance payments | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (d) Disability, or worker's compensation payments | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (e) Gifts, or inheritances | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (f) Any other sources | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

If you answered "Yes" to any question above, describe below or on separate pages each source of money and state the amount that you received and what you expect to receive in the future.

AO 240 (Rev. 07/10) Application to Proceed in District Court Without Prepaying Fees or Costs (Short Form)

4. Amount of money that I have in cash or in a checking or savings account: \$ _____.

5. Any automobile, real estate, stock, bond, security, trust, jewelry, art work, or other financial instrument or thing of value that I own, including any item of value held in someone else's name *(describe the property and its approximate value)*:

6. Any housing, transportation, utilities, or loan payments, or other regular monthly expenses *(describe and provide the amount of the monthly expense)*:

7. Names (or, if under 18, initials only) of all persons who are dependent on me for support, my relationship with each person, and how much I contribute to their support:

8. Any debts or financial obligations *(describe the amounts owed and to whom they are payable)*:

Declaration: I declare under penalty of perjury that the above information is true and understand that a false statement may result in a dismissal of my claims.

Date: _____

Applicant's signature

Printed name